## DETAILED ACTION

*1.* This action is in response to the papers filed December 4, 2008. Currently, claims 1-9 are pending.

### *Priority*

2. This application is a 371 of PCT/GB04/03009, filed July 12, 2004 and claims priority to UK 0316349.0, filed July 11, 2003.

### *Drawings*

3. The drawings are acceptable.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the fourth paragraph of 35 U.S.C. 112:

> Subject to the following paragraph, a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.

4. Claim 3 is rejected under 35 U.S.C. 112, fourth paragraph, as failing to further limit Claim 2. Claim 2 requires that the load-providing means is a rotary valve. Claim 3 also requires that the valve is a rotary valve. It is unclear how Claim 3 further limits Claim 2.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hillsman et al. (US Pat. 5,582,182, December 10, 1996).

Hillsman teaches a system or apparatus for abnormal dyspenea perception detection. As seen in Figure 1, the apparatus comprises a mouthpiece (item number 4). The apparatus also includes a respiratory resistance device (i.e. a load providing means)(see Figure 1, number 2). Figure 3A, B and C of Hillsman illustrate Airway resistor/stepping motor assembly (col. 3, lines 50-60). Hillsman teaches that the inspiratory resistive device includes a respiratory resistance plate and reduction gear. The Respiratory resistance place rotates about a central mount on respiratory resistance device and has a handle to assist manual rotation to permit a variable sized orifice to be exposed to the Inspiration chamber (col. 7, lines 45-55)(limitations of Claims 2-3). Finally, the apparatus comprises a computer or electronic processor (a pressure control means). Figure illustrates that both pressure, flow/volume and borg units are inputs into the computer (limitations of Claim 5, 8). Figure 4 illustrates various visual biofeedback images seen on CRT (col. 7, lines 65-70)(limitations of Claim 6). Figure 1 demonstrates reports may be generated (Figure 1)(limitations of Claim 7).

## *Conclusion*

**6. No claims allowable over the art.**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Jeanine Goldberg whose telephone number is (571) 272-0743. The examiner can normally be reached Monday-Friday from 7:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nguyen, can be reached on (571)272-0731.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The Central Fax Number for official correspondence is (571) 273-8300.

**/Jeanine Goldberg/**
**Primary Examiner**
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